

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,
Plaintiff,

v.

PACIFIC GAS AND ELECTRIC
COMPANY,
Defendant.

Case No. 14-cr-00175-TEH

ORDER CONTINUING HEARING

The Court has reviewed the Government's request to vacate the August 17, 2015 hearing currently set on Defendant Pacific Gas & Electric Company's ("PG&E's") motion to dismiss certain counts of the Superseding Indictment. Request at 1 (Docket No. 115); *see also* Mot. at 1 (Docket No. 113). After considering the content of the motion, the request, PG&E's response, and the Government's reply, the Court now finds good cause to continue the hearing date to September 21, 2015.

First, the Court notes that the Government's interpretation of the March 11, 2015 order for pretrial preparation is without merit. The due dates for responsive briefs in the pretrial order do not limit the ability of either party to notice a pretrial motion for hearing prior to the final October 19, 2015 hearing date. *See* Pretrial Order at 3 (Docket No. 64). Rather, the pretrial order instructed the parties to comply with their proposed schedule, but modified some of the dates therein. *Id.* (citing Joint Statement (Docket No. 59)). The parties' statement itself said "September 21, 2015 -- opposition briefs due," and continued:

The parties anticipate additional motions may be required. As a general matter, the parties agree to use best efforts to follow this schedule: To give one week's notice to the other party of a potential motion, followed by two weeks for opposition, one week for reply, and two weeks for the Court to prepare for the hearing.

Joint Statement at 2. As the statement makes clear, the due dates in the parties' statement and the pretrial order did not set a single, fixed pretrial motion hearing date.

1 Nonetheless, the Court finds that the circumstances of this motion warrant
2 continuing the hearing date. The Government has stated that it is “unavailable due to both
3 personal and case-related travel.” Request at 1. Although the Government could have
4 done more to explain exactly when it will be unavailable, the Court recognizes the
5 potential for prejudice against the Government if the briefing and hearing proceed while
6 counsel are unavailable. Moreover, the Government objected to PG&E’s proposed
7 schedule prior to the filing, and even suggested using the two-week/one-week/two-week
8 schedule discussed in the parties’ joint statement, which PG&E declined to do. Ex. 5 to
9 Taylor Decl. at 4 (Docket No. 114-5). PG&E has not argued that it will be prejudiced by
10 continuing the hearing; it merely points to the “judicial efficiency” that will be served by
11 hearing the motion and potentially narrowing the issues sooner rather than later. Opp’n at
12 1 (Docket No. 116). Given the important issues presented by the motion, the risk of
13 prejudice to the Government in keeping the currently scheduled hearing date, and the
14 absence of prejudice to PG&E in continuing it, the Court finds good cause to continue the
15 hearing.

16 For the reasons set forth above, IT IS HEREBY ORDERED that the August 17,
17 2015 hearing shall be continued to **Monday, September 21, 2015, at 10:00 AM in**
18 **Courtroom 2**. The Government’s response to the motion shall be due by August 10.
19 PG&E’s reply shall be due by August 17.

20
21 **IT IS SO ORDERED.**

22
23 Dated: 07/30/15



THELTON E. HENDERSON
United States District Judge